

# **A.C. Sekar vs The Deputy Registrar Of Co-Operative Societies, The ... on 24 January, 2008**

## **Chennai High Court**

A.C. Sekar vs The Deputy Registrar Of Co-Operative Societies, The Special Officer, H.H. 517 Vettavalam Primary Agricultural Co-Op Bank And G. Azhagammal on 24/1/2008

### **ORDER**

K. Chandru, J.

1. Heard Mr. C. Prakasam, learned Counsel appearing for the petitioner and Mrs. Bhavani Subbaroyan, learned Additional Government Pleader representing the first respondent and perused the records.

2. The petitioner is a salesman in the second respondent Bank and has filed the present writ petition against the direction given by the Deputy Registrar (first respondent) to the second respondent to furnish the information sought for by the third respondent. According to the petitioner, the third respondent's son was a member of the Marxist Party and was sending petitions to the higher officials as the petitioner had denied mamool to be given to him frequently. The said person, by name, Thirumoorthy, had sought for certain information under the Right to Information Act [for short, 'RTI Act']. On the basis of the request made by him, the said person was directed to pay Rs. 25,405/- towards the cost of furnishing the said information in terms of the Right to Information (Regulation of Fees and Cost) Rules, 2005. The said Thirumoorthy did not pursue his request. But, on the contrary, set up his mother the third respondent for getting the information, which was earlier sought for by her son. She also claimed that she comes below the poverty line and produced a certificate from the Executive Officer of the Town Panchayat, Vettavalam. Her request was conceded by the first respondent and accordingly, the second respondent Special Officer was directed to furnish the said information without insisting any payment. But the petitioner, aggrieved by the said direction, has come forward to file the present writ petition challenging the said direction.

3. Mr. C. Prakasam, learned Counsel appearing for the petitioner submitted that the third respondent had committed a fraud in producing a certificate stating that she belongs to below poverty line category even though her sons are working and she owns some land in the village. Further, she has been set up by her son, who made an application seeking for the very same information and when he was asked to pay a sum of Rs. 25,405/-, he did not pay the said amount and, therefore, on these grounds, no information should be furnished to the third respondent. Further, if such information was furnished, the Society will become poorer as the cost of furnishing such information has been worked out nearly to Rs. 25,000/- earlier. The information was also sought for to blackmail the employees working in the second respondent Society and, therefore, the same should not be furnished.

4. The information that was sought for by the third respondent was the details regarding the 7 ration shops run by the second respondent Society and the Sales Register maintained by the petitioner during the relevant period as well as the daily sales details, Stock Register and leave details of the petitioner for the relevant period. First of all, the communication that has been attacked by the petitioner is only an inter-office communication between the respondents 1 and 2 and the petitioner has no locus standi to challenge the same.

5. Inasmuch as the petitioner has been working in a shop in which the commodities of the public distribution system are being dealt with, the petitioner cannot claim any right of privacy if those details are furnished to any citizen, who seeks such an information. It is not as if the third respondent is a stranger to the institution from which the information is sought for. But rather she is a beneficiary and a consumer of the products sold to the public on a State subsidy and, therefore, she, as a citizen as well as a beneficiary of the consumer from the said shop, is entitled to seek the said information.

6. Considering the scope of the RTI Act, this Court by a judgment in Diamond Jubilee Higher Secondary School rep. By its Secretary and Correspondent, Erode District v. Union of India rep. by Secretary, Ministry of Law, Justice and Company Affairs, New Delhi and Ors. (2007) 3 MLJ 77 after referring to certain academic papers presented by distinguished persons, set forth the objects behind the enactment of the Act. Paragraph No. 8, which is relevant, reads as follows:

8. In a lecture delivered by Dr. Justice A.R. Lakshmanan, the retired Judge of the Supreme Court on 19.8.2006 at Chennai, the

learned Judge traced the History of Right to Information Act, 2005 in the following words:

This right traces its origin since 1948 March, when the United Nations convened a Conference in Geneva on the subject matter of freedom of information, that was attended by 54 countries which ultimately let the General Assembly of United Nations to declare the freedom of information a fundamental human right, and declaration was made on 10.12.1948. In 1960, the Economic and Social Council of the United Nations adopted a Declaration of Freedom of Information. Sweden became the first country in the world, to enact a provision for access to official information for its citizens. Many countries later adopted this principle and drafted legislations incorporating the same. Each individual shall have appropriate access to information concerning the decision making process. Effective access to judicial and administrative proceedings, including redress and remedy should be provided. The Right to Information Act, 2005 is a recognition of such Fundamental Rights making possible the participation of the people in the decision-making process in our democracy. Access to information on laws mandated Government services and Government expenses are fundamental for the people to hold Governments more accountable for their performance.

7. It must also be noted that no private information of the petitioner has been sought for and the information that is sought for is only relating to the public office held by the petitioner as sales person in the Society. This Court dealt with a similar claim made by a third party in relation to the direction given by the Officers under the RTI Act in the case relating to V.V. Mineral, regd. Firm through its Managing Partner, Tisaiyanvilai, Tirunelveli District v. Director of Geology and Mining, Chennai and Ors. 2007 (4) M.L.J. 394. Paragraphs 17 and 18 of the said order may be extracted below:

Para 17: Therefore, no total immunity can be claimed by any so-called third party. Further, if it is not a matter covered by Section 8(1)(d) of the Act, the question of any denial by the Information officer does not arise. Therefore, on appeal preferred by the petitioner, the first respondent held that it is not an issue covered by Section 8(1)(d) of the Act. If it is only covered by Section 8(1)(d) of the Act, the question of denial of information by the authority may arise.

Para 18: In any event, as contended by the learned Counsel for the petitioner that under Section 11(3) read with Section 19 of the RTI

Act of the has not been given any notice as referred to above, a Second Appeal is provided under Section 19(3) to the State Information Commission. There is no whisper in the affidavit as to why the petitioner had not approached the State Commission as provided under the Act. In fact, the contention made in para 5 of the affidavit, is that there is no other efficacious remedy to the petitioner is contrary to the provisions of the Act. The Commission is a wider body and clothed with all the powers of a Civil Court under Section 8(3) of the RTI Act and therefore, it is misnomer to call it as a non-efficacious remedy.

8. As regards the motive attributed to the third respondent, it must be stated that such allegation has no relevance in furnishing of the information. In the very same V.V. Mineral's case (cited supra), this Court has noted in paragraph 19 as follows:

Para 19: If a person, who seeks for documents, is a business competitor and if any trade secret is sought for, then such document may be denied. But regarding a public document, if sought for by an individual whatever the motivation of such individual in seeking document has no relevancy as the Central RTI Act had not made any distinction between a citizen and a so-called motivated citizen. Hence, the submission in this regard has to fail.

9. Therefore, the attempt of the petitioner to thwart the direction issued by the first respondent cannot be countenanced by this Court. In fact, in these days, when there is an increasing allegation of misfeasance and malfeasance committed in fair price shops are coming to the notice of the public, the RTI Act can be potent weapon to check such illegal and criminal activities of the staff employed in those shops. If ultimately by furnishing of such information, the affairs of the Society can be brought to the attention of the authorities, who are in charge of supply of essential commodities, it can stem the tide of further rot into the system.

10. In view of the above, the writ petition is misconceived and devoid of merits. Accordingly, the same will stand dismissed. However, there will be no order as to costs. Connected Miscellaneous Petitions are closed.